

Certificate of Electronic Transmission

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office on

December 27, 2007

Date

/David W. Dorton/

David W. Dorton, Registration No. 51,625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/708,312
Filed: February 24, 2004
Art Unit: 1732
Examiner: Lawrence Emile Lambelet
Applicant: Todd L. DePue
Title: TWO SHOT-CO-INJECTED AUTOMOTIVE INTERIOR TRIM
ASSEMBLY AND METHOD
Attorney Docket: MASLIAC-29
Confirmation No.: 2311

Cincinnati, Ohio 45202

December 27, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

This Reply Brief responds to the Examiner's Answer mailed October 31, 2007.

Appellant submits the following remarks to the Examiner's response.

REMARKS

A. The Rejection of Claim 5 under 35 U.S.C. §103(a) over Bertschi in view of Thomson and further in view of Dry

The Examiner maintains the rejection of claim 5, asserting that Bertschi '998 discloses the injection of first, second, and third materials sequentially or simultaneously. Appellant notes, however, that Bertschi '998 still only discloses the injection of second and third materials 444, 492 into the center of a first material 490, regardless of whether or not the injection of the second and third materials 444, 492 occurs simultaneously or sequentially with respect to each other, or with respect to the first material 490. Accordingly, Bertschi '998 does not disclose "co-injecting second and third materials onto the substrate member to form a cover member on the substrate . . . wherein the second material is an outer pliable layer and the third material is an inner compressible layer" (emphasis added), as set forth in claim 5 and discussed in Appellant's Appeal Brief filed August 27, 2007.

Moreover, there is no combination of injections of the materials of Bertschi '998 that would result in the claimed invention. In this regard, Appellant notes that Thomson '134 states that it is well known that "the first material to enter the mold remains substantially on the outside of the molded part, and material injected later remains substantially in the core of the part." (Thomson '134 at col. 1, lines 32-35.)(Emphasis added.)

At page 11, the Examiner alleges that "co-injection of a material and cover layer is taught by Bertschi '998 and Thomson '134 as being an alternative to single injection."

Appellant respectfully disagrees. Rather, co-injection involves two materials and may be an alternative to sequential, single-injections of the two materials in separate steps. Co-injection is not an alternative to the single injection of a single material, as alleged by the Examiner. As discussed in the Appeal Brief filed August 27, 2007, Thomson '134 and Dry '363 are directed to apparatus and methods for making articles using only two materials. These references, therefore, do not disclose co-injecting a third material with the second material to form a cover on a substrate, and a person skilled in the art would not have been led to substitute the second, single-material injection step of Dry '363 with a step that involves co-injection of two materials, as alleged by the Examiner. For at least these reasons, Appellant respectfully requests that the rejection of claim 5 over Bertschi '998 in view of Thomson '134 and further in view of Dry '363 be reversed.

B. The Rejections of Claims 5 and 7-8 under 35 U.S.C. §103(a) over Schoemann in view of Thomson, and the Rejection of Claim 9 over Schoemann in view of Thomson, and further in view of Dry

The Examiner argues that Thomson '134 teaches replacing a second, foam injection shot of Schoemann '023 with a co-injection shot of two materials. (Examiner's Answer dated October 31, 2007, at page 12.) Appellant respectfully disagrees. Schoemann '023 is directed to a method of forming a vehicle trim panel, wherein a second material is overmolded onto a substrate that was previously formed during a first shot of a molding operation. (See Abstract of Schoemann '023.) The second shot of Schoemann '023, therefore, is not a foam material, but rather is a soft, outer layer. At

paragraphs 33-35, Schoemann '023 states that the first material is preferably a harder material, such as polypropylene, and the second material is a softer material, such as TPU or TPE. An object of Thomson '134 is to make a part with a chemically foamed core but without a streaky exterior. (See Thomson '134 at col. 1, lines 35-40.) The Examiner does not explain why a person skilled in the art would substitute the injection of two materials in a co-injection step for the single-material, second shot of Schoemann '023 and there is no apparent motivation to make such a substitution. For at least these reasons, Appellant asserts that a *prima facie* case of obviousness has not been made and respectfully requests that the rejections of claims 5 and 7-9 over Schoemann '023 in view of Thomson '134 or Dry '363 be reversed.

Conclusion

In view of the foregoing remarks and the Appeal Brief filed August 27, 2007, Appellant respectfully urges the Board to reverse the rejections of claims 5 and 7-9.

Appellant does not believe that any fee is due in connection with this submission. However, if any fees are necessary to complete this communication, the Commissioner may consider this to be a request for such and charge any necessary fees to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324 (voice)
(513) 241-6234 (facsimile)

By: /David W. Dorton/
David W. Dorton, Reg. No. 51,625